

## **ZONING CHANGE REVIEW SHEET**

**CASE:** C14-2012-0046 – 135 West  
Slaughter Lane

**Z.A.P. DATE:** July 3, 2012  
September 4, 2012  
October 16, 2012

**ADDRESS:** 135 West Slaughter Lane

**OWNER AND APPLICANT:** Lester Euers

**AGENT:** Coats Rose  
(Pamela Madere)

**ZONING FROM:** RR; SF-2

**TO:** GR

**AREA:** 1.510 acres

### **SUMMARY STAFF RECOMMENDATION:**

The staff's recommendation is to grant community commercial – conditional overlay (GR-CO) combining district zoning. The Conditional Overlay: 1) limits development of the property to less than 2,000 vehicle trips per day; and prohibits the following uses: 2) automotive rentals; automotive repair services; automotive sales; bail bond services; building maintenance services; commercial off-street parking; communications services; drop-off recycling collection facility; exterminating services; funeral services; indoor entertainment; indoor sports and recreation; off-site accessory parking; outdoor entertainment; outdoor sports and recreation; pawn shop services; research services; and, theater.

If the requested zoning is recommended for this site, 35 feet of right-of-way should be dedicated from the centerline of Cullen Lane in accordance with the Transportation Criteria Manual.

### **ZONING & PLATTING COMMISSION RECOMMENDATION:**

July 3, 2012: *APPROVED A POSTPONEMENT REQUEST BY THE APPLICANT TO SEPTEMBER 4, 2012*

*[C. BANKS; S. BALDRIDGE – 2<sup>ND</sup>] (4-0) B. BAKER, J. MEEKER; G. ROJAS - ABSENT*

September 4, 2012: *APPROVED A POSTPONEMENT REQUEST BY THE APPLICANT TO OCTOBER 16, 2012*

*[P. SEEGER; C. BANKS – 2<sup>ND</sup>] (7-0)*

October 16, 2012: *APPROVED GR-CO DISTRICT ZONING WITH THE CONDITIONAL OVERLAY AS STAFF RECOMMENDED. R-O-W DEDICATION IS NOT REQUIRED ON CULLEN LANE (4-3) P. SEEGER; C. BANKS, G. ROJAS – NAY*

**ISSUES:**

Zoning and Transportation review staff has worked with the Austin Transportation Department and confirmed that there is a solid basis for requiring right-of-way on Cullen Lane. South of Slaughter Lane, other properties which access Cullen Lane have dedicated right-of-way to upgrade this roadway as part of development-related approvals, and this is the only property which has not. This is because the rezoning area is considered a legal lot and therefore, is not required to subdivide, and operates under an approved site plan dating to 1995, prior to annexation in 1997. Therefore, no other development-related applications are required, and right-of-way dedication with the subject rezoning case is a good opportunity to make the right-of-way on Cullen Lane more uniform and would allow the City to install a right-turn lane in the future. There are five Oak trees (although not of protected tree size) and a family monument within the right-of-way dedication area, and the Applicant is opposed to the dedication requirement.

Based on discussions with the Park Ridge Owners Association and action at First Reading for the previous (expired) cases on this property, the Applicant is willing to prohibit the following uses: automotive rentals; automotive repair services; automotive sales; bail bond services; building maintenance services; commercial off-street parking; communications services; drop-off recycling collection facility; exterminating services; funeral services; indoor entertainment; indoor sports and recreation; off-site accessory parking; outdoor entertainment; outdoor sports and recreation; pawn shop services; research services; and, theater. These uses have been incorporated into the Staff recommendation.

**DEPARTMENT COMMENTS:**

The subject rezoning area is developed with a dental office and a pet clinic on a portion of a platted lot out of the Tom F. Dunnahoo subdivision. The property, which is situated at the southeast corner of Slaughter Lane and Cullen Lane, is zoned rural residence and single family residence-standard lot (RR; SF-2) districts. The remainder of the land along Slaughter Lane between Cullen Lane and the IH-35 frontage road is developed with a shopping center anchored by a discount superstore, retail shopping space, restaurants, a drive-in bank, and service station (zoned GR-CO). The property to the west of the Cullen / Slaughter intersection consists of an existing fast food restaurant, and a shopping center that includes retail, restaurant and financial service uses (zoned SF-2; GR-CO). Please refer to Exhibits A (Zoning Map) and A-1 (Aerial View).

The Applicant proposes to rezone the lot to the community commercial (GR) district for a proposed retail and office development. Staff recommends GR-CO zoning based on the following considerations of the property: 1) location at the intersection of West Slaughter Lane, a major arterial roadway and Cullen Lane, a collector street, both of which are suitable for commercial uses and have good transportation access, and 2) properties on both sides of Slaughter Lane, east of Cullen Lane and along the IH-35 frontage road are developed with commercial uses and carry CS or GR zoning. The dedication requirement for right-of-way along Cullen Lane will enable intersection and turning lane improvements to occur.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	RR; SF-2	Dental office; Pet services
<i>North</i>	I-RR; GR-CO; CS-1-CO	Undeveloped; Retail; Carpet sales; Restaurant; Service stations with convenience stores
<i>South</i>	GR-CO	Shopping center anchored by a discount superstore
<i>East</i>	GR-CO	Financial services, Restaurants; Retail
<i>West</i>	SF-2; GR-CO; RR; LO-CO	Fast food restaurant; Shopping center, drive-in bank and fast food restaurants

**AREA STUDY:** N / A**TIA:** Is not required**WATERSHEDS:** Slaughter Creek; **DESIRED DEVELOPMENT ZONE:** Yes  
Onion Creek**CAPITOL VIEW CORRIDOR:** No**SCENIC ROADWAY:** Yes – Slaughter Lane**NEIGHBORHOOD ORGANIZATIONS:**

26 – Far South Austin Community Association  
 242 – Slaughter Lane Neighborhood Association  
 511 – Austin Neighborhoods Council      627 – Onion Creek Homeowner's Association  
 742 – Austin Independent School District  
 786 – Home Builders Association of Greater Austin  
 1037 – Homeless Neighborhood Association      1075 – League of Bicycling Voters  
 1200 – Super Duper Neighborhood Objectors and Appealers Organization  
 1224 – Austin Monorail Project      1228 – Sierra Club, Austin Regional Group  
 1236 – The Real Estate Council of Austin, Inc.      1340 – Austin Heritage Tree Foundation  
 1363 – SEL Texas

**SCHOOLS:**

Williams Elementary School

Paredes Middle School

Akins High School

**CASE HISTORIES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-05-0171 (Grove at Southpark Meadows)	I-RR; LO-CO; CS-CO to GR-MU-CO; SF-6; SF-6-CO; GR-CO	Approved GR-MU-CO for Tracts 1 & 2; SF-6 for Tract 3; SF-6-CO for Tract 4; GR-CO for Tract 5	Approved GR-MU-CO for Tracts 1 and 2; SF-6 for Tract 3, SF-4A for Tract 4, GR-CO for Tract 5; Restrictive Covenant for the Traffic Impact Analysis (5-18-06).

C14-05-0002 (Quick Tract)	RR to CS	Approved GR-CO with CO for list of prohibited and conditional uses. Restrictive Covenant for the Traffic Impact Analysis.	Approved GR-CO as recommended by ZAP. Restrictive Covenant is for the TIA (3-10-05).
C14-04-0075 (Southpark Meadows)	LO-CO; CS-1-CO to GR-CO	To Grant GR-CO with conditions of the TIA	Approved GR-CO district zoning with a Restrictive Covenant for the TIA, as recommended by the ZAP (10-21-04).
C14-04-0203 (Twin Liquors at Slaughter)	GR-CO to CS-1	To Grant CS-1	Approved CS-1 (2-10-05).
C14-04-0037 (Slaughter @ Cullen Commercial)	RR to GR	To Grant GR-CO with a list of prohibited uses and conditions of the TIA.	Approved GR-CO with CO for a list of prohibited and conditional uses; the Restrictive Covenant is for the TIA (8-26-04).
C14-03-0186 (Tobin Tract)	SF-2 to GR-CO	To Grant GR-CO	Approved GR-CO with CO for list of prohibited uses, and exterior lighting requirements; fiscal surety (3-4-04)
C14-03-0066 (IH-35 and Slaughter Lane)	RR; SF-2; LI-CO; CS-CO and CS to GR	To Grant GR-CO with conditions of the TIA	Approved GR-CO with CO provide a 6' fence and landscaping along Cullen Lane; 2) direct all traffic south on Cullen Lane by way of limited function driveways onto Cullen Lane that allow right-in and left-out movements only; 3) the use of shielded / hooded lights throughout the site; and, 4) a list of prohibited uses and one accessory use. The Restrictive

			Covenant is for the TIA memorandum and an Integrated Pest Management (IPM) Plan and a landscape plan for the use of native and adapted plant materials (10-30-03).
C14-96-0015 (Slaughter Creek Center)	I-RR to CS-1; GR	To Grant CS-1 for Tract 1; GR-CO for Tract 2	Approved CS-1; GR-CO with CO for 2,000 trip limit (4-25-96).
C14-00-2114 (R.L. Plumley Subdivision, Rezoning of Lot 1)	I-RR to CS	To Grant CS-CO	Approved CS-CO with prohibited uses: campground; kennels; pawn shops; vehicle storage; adult-oriented businesses; a sign may not be visible from IH-35 (10-23-00).
C14-00-2089 (Tom Dunnahoo Subdivision)	I-RR to CS	To Grant CS-CO	Approved CS-CO with prohibited uses: campground; kennels; pawn shops; vehicle storage (10-12-00).
C14-96-0016 (Plumley Subdivision Zoning)	I-RR to CS	To Grant CS-CO	Approved CS-CO with prohibited uses: campground; kennels; pawn shops; vehicle storage and 2,000 trips (4-25-96).

### **RELATED CASES:**

Three previous rezoning requests for GR-CO zoning on the subject property were approved by Council in January 2005, July 2006 and October 2008 on First Reading with an additional Conditional Overlay for a list of prohibited uses as discussed between the Applicant and the Park Ridge Owners Association and the requirement for right-of-way dedication along Cullen Lane (C14-04-0167, C14-06-0059 and C14-2008-0089). All three cases expired in January 2006, July 2007 and October 2009 because no action occurred within one year of First Reading, as set forth in Chapter 25-2-246 (B) of the Land Development Code.

In May 1995 the rezoning area was approved for two 1-story office buildings, totaling 10,300 square feet (SP-94-0495D). The Development Permit ("D") site plan (one which does not include a land use element, in this case because at the time it was located in the Extra-Territorial Jurisdiction) for the office uses is provided as Exhibit B.

The rezoning area represents the north 62 feet of Lot 9 of Tom F. Dunnahoo subdivision.

The property was annexed into the Full-Purpose Jurisdiction on December 31, 1997.

**ABUTTING STREETS:**

Name	ROW	Pavement	Classification	Bicycle Plan	Capital Metro	Sidewalks
West Slaughter Lane	120 feet	2 @ 36 feet	Major Arterial (40,234 vpd)	Yes	Yes	Yes
Cullen Lane	Varies	24 feet	Commercial Collector	Yes	Yes	Yes

Slaughter Lane is classified in the Bicycle Plan as Bike Route No. 86. Cullen Lane is classified in the Bicycle Plan as Bike Route No. 45.

Capital Metro bus service is available along W. Slaughter Lane and Cullen Lane with the Southpark Meadows feeder route (#201) and 1L via Lamar local service. For information: #201 route continues to Akins High School via FM 1626 and S. First Street.

**COUNCIL DATE:** August 2, 2012

**ACTION:** Approved a Postponement request by Staff to October 18, 2012 (7-0).

October 18, 2012

Approved a Postponement request by Staff to December 13, 2012 (6-0, Mayor Pro Tem Cole – off the dais).

December 13, 2012

**ORDINANCE READINGS:** 1<sup>st</sup>

2<sup>nd</sup>

3<sup>rd</sup>

**ORDINANCE NUMBER:**

**CASE MANAGER:** Wendy Rhoades  
e-mail: [wendy.rhoades@austintexas.gov](mailto:wendy.rhoades@austintexas.gov)

**PHONE:** 974-7719











SCALE: 1" = 40'-0"  
REFER TO SHEET A-3 FOR 1" = 80'-0" SCALE BLOOD/PAVING PLAN

### GENERAL NOTES

1. Transit each hole a 3" or 4" wheel wheel allowance.
2. Standard for the pricing space dimensions are 3'-0" x 10'-0".
3. Compact pricing space dimensions are 3'-0" x 12'-0".
4. Be sure to include 10' long and 4' wide and be completed to accommodate all.

POSTING SITE CONSIDERATION  
Told the friend  
[Long body text] [Long body text]  
[Long body text] [Long body text]  
[Long body text] [Long body text]

CONSTRUCTION PROGRAM  
FOR PROVIDING WATER

**COMPARISON OF THE  
1988, 1990 AND 1992  
CENSUSES**

1. **NAME**  
 2. **DATE**  
 3. **TIME**  
 4. **LOCATION**  
 5. **REMARKS**  
 6. **INITIALS**  
 7. **SIGNATURE**  
 8. **DATE**  
 9. **TIME**  
 10. **LOCATION**  
 11. **REMARKS**  
 12. **INITIALS**  
 13. **SIGNATURE**  
 14. **DATE**  
 15. **TIME**  
 16. **LOCATION**  
 17. **REMARKS**  
 18. **INITIALS**  
 19. **SIGNATURE**  
 20. **DATE**  
 21. **TIME**  
 22. **LOCATION**  
 23. **REMARKS**  
 24. **INITIALS**  
 25. **SIGNATURE**  
 26. **DATE**  
 27. **TIME**  
 28. **LOCATION**  
 29. **REMARKS**  
 30. **INITIALS**  
 31. **SIGNATURE**  
 32. **DATE**  
 33. **TIME**  
 34. **LOCATION**  
 35. **REMARKS**  
 36. **INITIALS**  
 37. **SIGNATURE**  
 38. **DATE**  
 39. **TIME**  
 40. **LOCATION**  
 41. **REMARKS**  
 42. **INITIALS**  
 43. **SIGNATURE**  
 44. **DATE**  
 45. **TIME**  
 46. **LOCATION**  
 47. **REMARKS**  
 48. **INITIALS**  
 49. **SIGNATURE**  
 50. **DATE**  
 51. **TIME**  
 52. **LOCATION**  
 53. **REMARKS**  
 54. **INITIALS**  
 55. **SIGNATURE**  
 56. **DATE**  
 57. **TIME**  
 58. **LOCATION**  
 59. **REMARKS**  
 60. **INITIALS**  
 61. **SIGNATURE**  
 62. **DATE**  
 63. **TIME**  
 64. **LOCATION**  
 65. **REMARKS**  
 66. **INITIALS**  
 67. **SIGNATURE**  
 68. **DATE**  
 69. **TIME**  
 70. **LOCATION**  
 71. **REMARKS**  
 72. **INITIALS**  
 73. **SIGNATURE**  
 74. **DATE**  
 75. **TIME**  
 76. **LOCATION**  
 77. **REMARKS**  
 78. **INITIALS**  
 79. **SIGNATURE**  
 80. **DATE**  
 81. **TIME**  
 82. **LOCATION**  
 83. **REMARKS**  
 84. **INITIALS**  
 85. **SIGNATURE**  
 86. **DATE**  
 87. **TIME**  
 88. **LOCATION**  
 89. **REMARKS**  
 90. **INITIALS**  
 91. **SIGNATURE**  
 92. **DATE**  
 93. **TIME**  
 94. **LOCATION**  
 95. **REMARKS**  
 96. **INITIALS**  
 97. **SIGNATURE**  
 98. **DATE**  
 99. **TIME**  
 100. **LOCATION**  
 101. **REMARKS**  
 102. **INITIALS**  
 103. **SIGNATURE**  
 104. **DATE**  
 105. **TIME**  
 106. **LOCATION**  
 107. **REMARKS**  
 108. **INITIALS**  
 109. **SIGNATURE**  
 110. **DATE**  
 111. **TIME**  
 112. **LOCATION**  
 113. **REMARKS**  
 114. **INITIALS**  
 115. **SIGNATURE**  
 116. **DATE**  
 117. **TIME**  
 118. **LOCATION**  
 119. **REMARKS**  
 120. **INITIALS**  
 121. **SIGNATURE**  
 122. **DATE**  
 123. **TIME**  
 124. **LOCATION**  
 125. **REMARKS**  
 126. **INITIALS**  
 127. **SIGNATURE**  
 128. **DATE**  
 129. **TIME**  
 130. **LOCATION**  
 131. **REMARKS**  
 132. **INITIALS**  
 133. **SIGNATURE**  
 134. **DATE**  
 135. **TIME**  
 136. **LOCATION**  
 137. **REMARKS**  
 138. **INITIALS**  
 139. **SIGNATURE**  
 140. **DATE**  
 141. **TIME**  
 142. **LOCATION**  
 143. **REMARKS**  
 144. **INITIALS**  
 145. **SIGNATURE**  
 146. **DATE**  
 147. **TIME**  
 148. **LOCATION**  
 149. **REMARKS**  
 150. **INITIALS**  
 151. **SIGNATURE**  
 152. **DATE**  
 153. **TIME**  
 154. **LOCATION**  
 155. **REMARKS**  
 156. **INITIALS**  
 157. **SIGNATURE**  
 158. **DATE**  
 159. **TIME**  
 160. **LOCATION**  
 161. **REMARKS**  
 162. **INITIALS**  
 163. **SIGNATURE**  
 164. **DATE**  
 165. **TIME**  
 166. **LOCATION**  
 167. **REMARKS**  
 168. **INITIALS**  
 169. **SIGNATURE**  
 170. **DATE**  
 171. **TIME**  
 172. **LOCATION**  
 173. **REMARKS**  
 174. **INITIALS**  
 175. **SIGNATURE**  
 176. **DATE**  
 177. **TIME**  
 178. **LOCATION**  
 179. **REMARKS**  
 180. **INITIALS**  
 181. **SIGNATURE**  
 182. **DATE**  
 183. **TIME**  
 184. **LOCATION**  
 185. **REMARKS**  
 186. **INITIALS**  
 187. **SIGNATURE**  
 188. **DATE**  
 189. **TIME**  
 190. **LOCATION**  
 191. **REMARKS**  
 192. **INITIALS**  
 193. **SIGNATURE**  
 194. **DATE**  
 195. **TIME**  
 196. **LOCATION**  
 197. **REMARKS**  
 198. **INITIALS**  
 199. **SIGNATURE**  
 200. **DATE**  
 201. **TIME**  
 202. **LOCATION**  
 203. **REMARKS**  
 204. **INITIALS**  
 205. **SIGNATURE**  
 206. **DATE**  
 207. **TIME**  
 208. **LOCATION**  
 209. **REMARKS**  
 210. **INITIALS**  
 211. **SIGNATURE**  
 212. **DATE**  
 213. **TIME**  
 214. **LOCATION**  
 215. **REMARKS**  
 216. **INITIALS**  
 217. **SIGNATURE**  
 218. **DATE**  
 219. **TIME**  
 220. **LOCATION**  
 221. **REMARKS**  
 222. **INITIALS**  
 223. **SIGNATURE**  
 224. **DATE**  
 225. **TIME**  
 226. **LOCATION**  
 227. **REMARKS**  
 228. **INITIALS**  
 229. **SIGNATURE**  
 230. **DATE**  
 231. **TIME**  
 232. **LOCATION**  
 233. **REMARKS**  
 234. **INITIALS**  
 235. **SIGNATURE**  
 236. **DATE**  
 237. **TIME**  
 238. **LOCATION**  
 239. **REMARKS**  
 240. **INITIALS**  
 241. **SIGNATURE**  
 242. **DATE**  
 243. **TIME**  
 244. **LOCATION**  
 245. **REMARKS**  
 246. **INITIALS**  
 247. **SIGNATURE**  
 248. **DATE**  
 249. **TIME**  
 250. **LOCATION**

[illegible]

1  
 2  
 3  
 4  
 5  
 6  
 7  
 8  
 9  
 10  
 11  
 12  
 13  
 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25  
 26  
 27  
 28  
 29  
 30  
 31  
 32  
 33  
 34  
 35  
 36  
 37  
 38  
 39  
 40  
 41  
 42  
 43  
 44  
 45  
 46  
 47  
 48  
 49  
 50  
 51  
 52  
 53  
 54  
 55  
 56  
 57  
 58  
 59  
 60  
 61  
 62  
 63  
 64  
 65  
 66  
 67  
 68  
 69  
 70  
 71  
 72  
 73  
 74  
 75  
 76  
 77  
 78  
 79  
 80  
 81  
 82  
 83  
 84  
 85  
 86  
 87  
 88  
 89  
 90  
 91  
 92  
 93  
 94  
 95  
 96  
 97  
 98  
 99  
 100  
 101  
 102  
 103  
 104  
 105  
 106  
 107  
 108  
 109  
 110  
 111  
 112  
 113  
 114  
 115  
 116  
 117  
 118  
 119  
 120  
 121  
 122  
 123  
 124  
 125  
 126  
 127  
 128  
 129  
 130  
 131  
 132  
 133  
 134  
 135  
 136  
 137  
 138  
 139  
 140  
 141  
 142  
 143  
 144  
 145  
 146  
 147  
 148  
 149  
 150  
 151  
 152  
 153  
 154  
 155  
 156  
 157  
 158  
 159  
 160  
 161  
 162  
 163  
 164  
 165  
 166  
 167  
 168  
 169  
 170  
 171  
 172  
 173  
 174  
 175  
 176  
 177  
 178  
 179  
 180  
 181  
 182  
 183  
 184  
 185  
 186  
 187  
 188  
 189  
 190  
 191  
 192  
 193  
 194  
 195  
 196  
 197  
 198  
 199  
 200  
 201  
 202  
 203  
 204  
 205  
 206  
 207  
 208  
 209  
 210  
 211  
 212  
 213  
 214  
 215  
 216  
 217  
 218  
 219  
 220  
 221  
 222  
 223  
 224  
 225  
 226  
 227  
 228  
 229  
 230  
 231  
 232  
 233  
 234  
 235  
 236  
 237  
 238  
 239  
 240  
 241  
 242  
 243  
 244  
 245  
 246  
 247  
 248  
 249  
 250  
 251  
 252  
 253  
 254  
 255  
 256  
 257  
 258  
 259  
 260  
 261  
 262  
 263  
 264  
 265  
 266  
 267  
 268  
 269  
 270  
 271  
 272  
 273  
 274  
 275  
 276  
 277  
 278  
 279  
 280  
 281  
 282  
 283  
 284  
 285  
 286  
 287  
 288  
 289  
 290  
 291  
 292  
 293  
 294  
 295  
 296  
 297  
 298  
 299  
 300  
 301  
 302  
 303  
 304  
 305  
 306  
 307  
 308  
 309  
 310  
 311  
 312  
 313  
 314  
 315  
 316  
 317  
 318  
 319  
 320  
 321  
 322  
 323  
 324  
 325  
 326  
 327  
 328  
 329  
 330  
 331  
 332  
 333  
 334  
 335  
 336  
 337  
 338  
 339  
 340  
 341  
 342  
 343  
 344  
 345  
 346  
 347  
 348  
 349  
 350  
 351  
 352  
 353  
 354  
 355  
 356  
 357  
 358  
 359  
 360  
 361  
 362  
 363  
 364  
 365  
 366  
 367  
 368  
 369  
 370  
 371  
 372  
 373  
 374  
 375  
 376  
 377  
 378  
 379  
 380  
 381  
 382  
 383  
 384  
 385  
 386  
 387  
 388  
 389  
 390  
 391  
 392  
 393  
 394  
 395  
 396  
 397  
 398  
 399  
 400  
 401  
 402  
 403  
 404  
 405  
 406  
 407  
 408  
 409  
 410  
 411  
 412  
 413  
 414  
 415  
 416  
 417  
 418  
 419  
 420  
 421  
 422  
 423  
 424  
 425  
 426  
 427  
 428  
 429  
 430  
 431  
 432  
 433  
 434  
 435  
 436  
 437  
 438  
 439  
 440  
 441  
 442  
 443  
 444  
 445  
 446  
 447  
 448  
 449  
 450  
 451  
 452  
 453  
 454  
 455  
 456  
 457  
 458  
 459  
 460  
 461  
 462  
 463  
 464  
 465  
 466  
 467  
 468  
 469  
 470  
 471  
 472  
 473  
 474  
 475  
 476  
 477  
 478  
 479  
 480  
 481  
 482  
 483  
 484  
 485  
 486  
 487  
 488  
 489  
 490  
 491  
 492  
 493  
 494  
 495  
 496  
 497  
 498  
 499  
 500  
 501  
 502  
 503  
 504  
 505  
 506  
 507  
 508  
 509  
 510  
 511  
 512  
 513  
 514  
 515  
 516  
 517  
 518  
 519  
 520  
 521  
 522  
 523  
 524  
 525

JAMES CLARK  
 16100 15TH AVE  
 JACKSONVILLE  
 FLA 32218  
 904/381-1111

FOR INFORMATION OF THE  
ATTORNEY GENERAL  
AND THE JUDICIAL  
BRANCH

100-438600-1  
 100-438600-2  
 100-438600-3  
 100-438600-4  
 100-438600-5  
 100-438600-6  
 100-438600-7  
 100-438600-8  
 100-438600-9  
 100-438600-10  
 100-438600-11  
 100-438600-12  
 100-438600-13  
 100-438600-14  
 100-438600-15  
 100-438600-16  
 100-438600-17  
 100-438600-18  
 100-438600-19  
 100-438600-20  
 100-438600-21  
 100-438600-22  
 100-438600-23  
 100-438600-24  
 100-438600-25  
 100-438600-26  
 100-438600-27  
 100-438600-28  
 100-438600-29  
 100-438600-30  
 100-438600-31  
 100-438600-32  
 100-438600-33  
 100-438600-34  
 100-438600-35  
 100-438600-36  
 100-438600-37  
 100-438600-38  
 100-438600-39  
 100-438600-40  
 100-438600-41  
 100-438600-42  
 100-438600-43  
 100-438600-44  
 100-438600-45  
 100-438600-46  
 100-438600-47  
 100-438600-48  
 100-438600-49  
 100-438600-50  
 100-438600-51  
 100-438600-52  
 100-438600-53  
 100-438600-54  
 100-438600-55  
 100-438600-56  
 100-438600-57  
 100-438600-58  
 100-438600-59  
 100-438600-60  
 100-438600-61  
 100-438600-62  
 100-438600-63  
 100-438600-64  
 100-438600-65  
 100-438600-66  
 100-438600-67  
 100-438600-68  
 100-438600-69  
 100-438600-70  
 100-438600-71  
 100-438600-72  
 100-438600-73  
 100-438600-74  
 100-438600-75  
 100-438600-76  
 100-438600-77  
 100-438600-78  
 100-438600-79  
 100-438600-80  
 100-438600-81  
 100-438600-82  
 100-438600-83  
 100-438600-84  
 100-438600-85  
 100-438600-86  
 100-438600-87  
 100-438600-88  
 100-438600-89  
 100-438600-90  
 100-438600-91  
 100-438600-92  
 100-438600-93  
 100-438600-94  
 100-438600-95  
 100-438600-96  
 100-438600-97  
 100-438600-98  
 100-438600-99  
 100-438600-100

**TOTAL PROJECT SITE CONTAMINATION**

5-1-22  
 OFFICE OF THE ATTORNEY GENERAL  
 524-0120

EXHIBIT B  
APPROVED SITE PLAN

**SUMMARY STAFF RECOMMENDATION:**

The staff's recommendation is to grant community commercial – conditional overlay (GR-CO) combining district zoning. The Conditional Overlay: 1) limits development of the property to less than 2,000 vehicle trips per day; and prohibits the following uses: 2) automotive rentals; automotive repair services; automotive sales; bail bond services; building maintenance services; commercial off-street parking; communications services; drop-off recycling collection facility; exterminating services; funeral services; indoor entertainment; indoor sports and recreation; off-site accessory parking; outdoor entertainment; outdoor sports and recreation; pawn shop services; research services; and, theater. limits development of the property to less than 2,000 vehicle trips per day.

If the requested zoning is recommended for this site, 35 feet of right-of-way should be dedicated from the centerline of Cullen Lane in accordance with the Transportation Criteria Manual.

**BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)**

1. *The proposed zoning should be consistent with the purpose statement of the district sought.*

The proposed GR, Community Commercial district is intended for office and commercial uses serving neighborhood and community needs, including both unified shopping centers and individually developed commercial sites, and typically requiring locations accessible from major trafficways. The property has access to West Slaughter Lane, an improved, 6-lane major arterial roadway and Cullen Lane, a collector street.

2. *Zoning changes should promote an orderly and compatible relationship among land uses.*

Staff recommends GR-CO zoning based on the following considerations of the property: 1) location at the intersection of West Slaughter Lane, a major arterial roadway and Cullen Road, a collector street, both of which are suitable for commercial uses and have good transportation access, and 2) properties on both sides of Slaughter Lane, east of Cullen Road and along the IH-35 frontage road are developed with commercial uses and carry CS or GR zoning. The dedication requirement for right-of-way along Cullen Lane will enable intersection and turning lane improvements to occur.

**EXISTING CONDITIONS****Site Characteristics**

The rezoning area is developed with a dental office and pet services use. There appear to be no significant topographical constraints on the site.

### **Impervious Cover**

The maximum impervious cover allowed by the GR zoning district would be 80%, which is based on the more restrictive zoning regulations. The existing amount of impervious cover shown on the approved "D" Site Plan is 29.98%.

### **Environmental**

The site is not located over the Edwards Aquifer Recharge Zone. The site is in the Desired Development Zone. The site is in the Slaughter Creek and Onion Creek Watersheds of the Colorado River Basin, which are classified as Suburban Watersheds by Chapter 25-8 of the City's Land Development Code. Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Net Site Area</i>	<i>% with Transfers</i>
Single-Family (minimum lot size 5750 sq. ft.)	50%	60%
Other Single-Family or Duplex	55%	60%
Multifamily	60%	70%
Commercial	80%	90%

According to floodplain maps there is no floodplain within or adjacent to the project boundary.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

Trees will likely be impacted with a proposed development associated with this rezoning case. Please be aware that an approved rezoning status does not eliminate a proposed development's requirements to meet the intent of the tree ordinances. If further explanation or specificity is needed, please contact the City Arborist at 974-1876. At this time, site specific information is unavailable regarding other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

Under current watershed regulations, development or redevelopment on this site will be subject to the following water quality control requirements:

- Structural controls: Sedimentation and filtration basins with increased capture volume and 2 year detention.

### **Transportation**

If the requested zoning is recommended for this site, 35 feet of right-of-way should be dedicated from the centerline of Cullen Lane in accordance with the Transportation Criteria Manual, in order to accommodate traffic anticipated to be generated by this site. LDC, 25-6-55; TCM, Tables 1-7, 1-12.



A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day. [LDC, 25-6-117]

### **Water and Wastewater**

The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. Water and wastewater utility plans must be reviewed and approved by the Austin Water Utility for compliance with City criteria. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

### **Site Plan**

This tract is already developed with one of two buildings phased in SP-94-0495D (approximately 25,829 sq. ft. at 29.98% impervious coverage). Site plans will be required for any new development.

**FYI:** This site is located in the Desired Development Zone. Expiration for any site plan will be three years from the date of approval however; under Project Duration [25-1-535(C)(3)] the site plan can only be extended to a maximum of five years from initial submittal date. No other extensions will be allowed under Project Duration for projects in the DDZ. For questions concerning Project Duration please contact Susan Scallon at 974-2659.

Slaughter Lane is a scenic roadway – Sign Ordinance will apply.

This site will be subject to commercial design standards; Cullen Lane is classified as a Suburban Roadway and Slaughter Lane is classified as a Future Core Transit Corridor.

Demonstrate compliance with building placement and sidewalk requirements of Section 2.2.4.

If any vertical improvements are planned for the Right-of-Way, such as trees, furniture, or irrigation, a license agreement is required. Please contact Andy Halm with Austin Transportation Dept. at 974-7185. Please begin this process as soon as possible, as it can take some time.

Compliance with Building Design Standards, Article 3 of Subchapter E, is required, and is to be reviewed for compliance during building code review.

Building entrances to be at intervals of no more than 75 feet along the elevation facing the principal street. If not, areas between entrances (or from building edge to entrance) shall use shaded sidewalks (§ 2.2.6.B.2.; p. 41)

At least one customer entrance must face the principal street and connect directly to the sidewalk along the principal street, unless you meet the exception requirements of Section 2.2.6.B.1

Demonstrate compliance with Subchapter E, Section 2.3.2.B.2: Additional Measures to Improve Connectivity; showing which options from the table are being utilized in this development.

Provide a description and cut sheets of all lighting fixtures not affixed to buildings (i. e. parking lot lighting) demonstrating compliance with Section 2.5.2.A.; p. 49.

# COATS | ROSE

*A Professional Corporation*

PAMELA J. MADERE

pmadere@coatsrose.com  
Direct Dial  
512.541.3594

July 28, 2012

**VIA EMAIL**

Ms. Wendy Rhoades, Case Manager  
Planning & Development Review Department  
City of Austin  
505 Barton Springs, 5<sup>th</sup> Floor  
Austin, Texas 78704

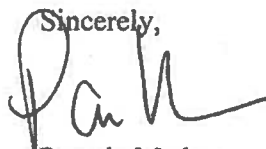
Re: 135 W. Slaughter (C14-2012-0046); Postponement Request

Dear Ms. Rhoades:

I am writing to you on behalf of our client, Lester Euers (the "Applicant"), to formally request a postponement of the above-referenced case to the September 4, 2012 Zoning & Platting Commission hearing. The Applicant would like to have additional time to work with the City of Austin staff regarding the proposed right-of-way and the City's proposed recommendation. This is the Applicant's first request for a postponement.

Thank you for your immediate attention to this matter. Please feel free to contact me if you have any questions.

Sincerely,



Pamela Madere

cc: Zoning & Platting Commissioners  
Jerry Rusthoven, City of Austin  
Dora Anguiano, City of Austin

1717 W. 6<sup>th</sup> Street, Suite 420 Austin, Texas 78703

Phone: 512-469-7987 Fax: 512-469-9408

Web: [www.coatsrose.com](http://www.coatsrose.com)

HOUSTON | CLEAR LAKE | AUSTIN | DALLAS | SAN ANTONIO | NEW ORLEANS  
1743526.1/012019.000001



# COATS | ROSE

*A Professional Corporation*

JOHN M. JOSEPH

jmjoseph@coatsrose.com  
Direct Dial  
512.541.3593

August 30, 2012

**VIA EMAIL**

Ms. Wendy Rhoades, Case Manager  
Planning & Development Review Department  
City of Austin  
505 Barton Springs, 5<sup>th</sup> Floor  
Austin, Texas 78704

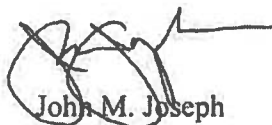
Re: 135 W. Slaughter (C14-2012-0046); Postponement Request

Dear Ms. Rhoades:

I am writing to you on behalf of our client, Lester Euers (the "Applicant"), to formally request a postponement of the above-referenced case to the October 16, 2012 Zoning & Platting Commission hearing. The Applicant would like to have additional time to work on issues regarding the proposed right-of-way and the City's proposed recommendation.

Thank you for your immediate attention to this matter. Please feel free to contact me if you have any questions.

Sincerely,



John M. Joseph

cc: Zoning & Platting Commissioners  
Jerry Rusthoven, City of Austin  
Dora Anguiano, City of Austin

1717 W. 6<sup>th</sup> Street, Suite 420 Austin, Texas 78703

Phone: 512-469-7987 Fax: 512-469-9408

Web: [www.coatsrose.com](http://www.coatsrose.com)

HOUSTON | CLEAR LAKE | AUSTIN | DALLAS | SAN ANTONIO | NEW ORLEANS  
1766597.1/012019.000001

# COATS | ROSE

*A Professional Corporation*

PAMELA MADERE

pmadere@coatsrose.com  
Direct Dial  
512.541.3594

December 6, 2012

**VIA EMAIL**

Ms. Wendy Rhoades, Case Manager  
Planning & Development Review Department  
City of Austin  
505 Barton Springs, 5<sup>th</sup> Floor  
Austin, Texas 78704

Re: 135 W. Slaughter (C14-2012-0046)

Dear Ms. Rhoades:

We represent Lester Euers (hereinafter the "Applicant") in connection with his application to rezone his property at 135 W. Slaughter Lane from SF-2 and RR to GR. The purpose of this letter is to state why we believe the City lacks the authority to insist, as a condition of this rezoning, that the Applicant dedicate a portion of his property to widen Cullen Lane.

As you know, the property is occupied by an approximately 5,991 square foot building used as a pet clinic and dentist's office. This building was constructed in 2000 pursuant to a site plan approved in 1995. The Applicant's property was annexed into the City on December 31, 1997. It has endured inappropriate zoning for nearly fifteen years now. The zoning has become less appropriate with each passing year. Slaughter Lane, which fronts the property, carries in excess of 35,000 vehicles per day. The largest outdoor shopping center in central Texas – which includes a Super Wal-Mart, Target, and dozens of shops and restaurants – lies directly to the south. It is unconceivable to suggest that the property would be appropriately used for large-lot, single-family housing. Everyone, including City staff and the Zoning and Platting Commission, agrees that a change in zoning is appropriate, and the Applicant has readily agreed to a conditional overlay to exclude the uses the City deems objectionable at the site.

City staff has nevertheless insisted, as a condition of approval of zoning, that the Applicant dedicate 35 feet from the center line of Cullen Lane to the City without compensation in order to receive the appropriate zoning. The City lacks the authority to insist on this dedication for three reasons.

Barton Oaks Plaza, 901 South MoPac Expressway, Building 1 Suite 500, Austin, Texas 78746

Phone: 512-469-7987 Fax: 512-469-9408

Web: [www.coatsrose.com](http://www.coatsrose.com)

HOUSTON | CLEAR LAKE | AUSTIN | DALLAS | SAN ANTONIO | NEW ORLEANS  
1780368.1/012019.000001

First, there is no authority under the Land Development Code ("LDC") for the City to demand this dedication. The only provision of the LDC that staff has cited for authorization is Section 25-6-55 of the LDC, which provides in relevant part:

(A) If the City Manager determines that all or a portion of a right-of-way is needed to accommodate the estimated traffic *generated by a proposed development*, the applicant may be required to dedicate:

(2) an amount of land not to exceed 50 percent of the total right-of-way requirement for an existing or proposed roadway that:

(a) is subject to reservation of right-of-way under Section 25-6-51 (Reservation of Right-of-Way); and,

(b) adjoins a proposed subdivision or development project.

As the italicized language makes clear, the City is entitled to make a demand for dedication only in connection with "a proposed development." "Development," according to the LDC, means "the construction or reconstruction of a building or road; the placement of a structure on land; the excavation, mining, dredging, grading, or filling of land; the removal of vegetation from land; or the deposit of refuse or waste on land." LDC § 25-1-21(27). A mere change in zoning, in particular, is not "development." The Applicant has not proposed any development in conjunction with this rezoning application. Indeed, staff has taken the position that any future development will require a site plan.

Second, even assuming for the sake of argument that the Applicant's requested zoning constituted "proposed development," the City's demand constitutes an exaction under Section 212.904 of the Texas Local Government Code. The City's obligations under Section 212.904 are clear. Subsection (a) specifies:

If a municipality requires as a condition of approval for a property development project that the developer bear a portion of the costs of municipal infrastructure improvements *by the making of dedications*, the payment of fees, or the payment of construction costs, the developer's portion of the costs may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer who holds a license issued under Chapter 1001, Occupations Code, and is retained by the municipality.

The City has not provided the Applicant with an estimate of the proportionate impact of the Applicant's proposed development, much less one prepared by a professional, licensed engineer. Given that the Applicant is proposing no new development, we do not see how an engineer could assign *any* impact to the Applicant's proposal. The City's failure to comply with this basic statutory requirement, though, is telling evidence of its lack of authority to make this dedication.

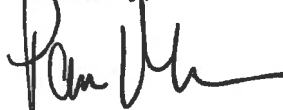


Third, and finally, regardless of whether Section 212.904 applies, this case falls within the United States Supreme Court's decisions in *Nollan v. California Coastal Commission*<sup>1</sup> and *Dolan v. City of Tigard*<sup>2</sup> and the Texas Supreme Court's decision in *Town of Flower Mound v. Stafford Estates*.<sup>3</sup> These decisions establish that an exaction is deemed a taking unless the city makes an individualized determination that: (i) the exaction "meaningfully" supports a legitimate public purpose, and (ii) the exaction has a reasonable relationship, both in nature and extent, to the development's impact. Moreover, it is the city's burden to make this individualized analysis and demonstrate the necessary conditions. An exaction imposed without this individualized determination is a taking in violation of the United States and Texas Constitutions. The City of Austin has made no such determination.

There is in fact no reasonable relationship between the Applicant's proposal and the need to widen Cullen. The need for a turn lane on Cullen Lane was not created by the Applicant's development, which has existed, unchanged, in its current configuration for over twelve years. Instead, the need has been created by the enormous Southpark Meadows shopping center and other commercial development to the south of the Property, which was approved and constructed long after the Applicant's property was developed. The traffic generated by this development is now being used as the basis for extracting land for free from the Applicant.

In summary, neither the LDC, the Texas Local Government Code, nor the Texas or United States Constitutions permit the City to demand a zoning applicant to dedicate land merely because the City "needs" it or would like to get it for free. The Texas Legislature enacted Section 212.904 precisely to put an end to this practice. The Applicant accordingly requests that his zoning be approved without requiring a dedication. As we have stated all along, the Applicant will agree to other conditions requested by staff, including a limit on trips per day and limits on uses through a conditional overlay. At the hearing on October 16, 2012, the Zoning and Platting Commission approved GR-CO district zoning with the conditional overlay without the right-of-way dedication on Cullen Lane.

Sincerely,



Pamela Madere

---

<sup>1</sup> *Nollan v. Cal. Coastal Comm'n*, 483 U.S. 825 (1987).

<sup>2</sup> *Dolan v. City of Tigard*, 512 U.S. 374 (1994).

<sup>3</sup> *Town of Flower Mound v. Stafford Estates*, 135 S.W.3d 620 (Tex. 2004).